



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 24, 1995

Mr. Richard D. Monroe
Deputy General Counsel
Texas Department of Transportation
Dewitt C. Greer State Highway Building
125 East 11th Street
Austin, Texas 78701-2483

OR95-088

Dear Mr. Monroe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 30331.

The Texas Department of Transportation received an open records request for information that you contend may be withheld from the public pursuant to the Open Records Act, section 552.103(a) of the Government Code. Section 552.103(a) applies to information:

- (1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and
- (2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 588 (1991). In this instance you have made the requisite showing that the requested information relates to reasonably anticipated litigation for purposes of section 552.103(a). The requested records may therefore be withheld.

We note that if the opposing parties in the anticipated litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349, 320 (1982). In addition, the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Kay Guajardo".

Kay H. Guajardo
Assistant Attorney General
Open Government Section

KHG/rho

Ref.: ID# 30331

Enclosures: Submitted documents

cc: Mr. Tony Renteria
Attorney at Law
101 Stumberg
San Antonio, Texas 78204
(w/o enclosures)